

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DOLAN R. SANSON,
Plaintiff,

v.

CIVIL ACTION NO. 2:10CV38

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,
Defendant.

REPORT AND RECOMMENDATION/OPINION

On March 22, 2010, the plaintiff, Dolan R. Sanson, by Belinda S. Morton, his attorney, filed a Complaint in this matter [DE 1]. On May 24, 2010, Defendant filed his Answer to the Complaint, along with a copy of the Transcript of the Administrative Proceedings in this matter [DE 7, 8, 9].

Plaintiff's Motion for Summary Judgment was therefore due on or before June 24, 2010. A review of the docket revealed Plaintiff had not filed his Motion for Summary Judgment and Memorandum in Support thereof as of August 23, 2010. On August 24, 2010, the undersigned United States Magistrate Judge ordered that on or before September 7, 2010, Plaintiff show good cause in writing, why he failed to timely file his Motion for Summary Judgment and Memorandum in Support in accord with the Local Rules. The Order expressly warned that failure to show cause would result in the undersigned recommending to the District Judge that this case be dismissed for failure to prosecute.

A review of the docket shows that as of September 8, 2010, Plaintiff had not filed any response to the Order to Show Cause.

RECOMMENDATION

For the above reasons, the undersigned respectfully **RECOMMENDS** that the plaintiff's

Complaint (Docket No. 1) be **DISMISSED WITH PREJUDICE** for failure to prosecute and for failure to comply with the Local Rules and this Court's Order of August 24, 2010.

Any party may, within fourteen (14) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should also be submitted to the Honorable Robert E. Maxwell, United States District Judge. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to send a copy of this Report and Recommendation to counsel of record.

DATED: September 8, 2010.

John S. Kaull
JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE